

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NATIONAL CITY BANK,)	
)	
Plaintiff,)	
v.)	Case No. 07 C 6380
)	
CREATIVE FINANCIAL SOLUTIONS, LTD.,)	Judge Bucklo
EUGENE BENNETT, CHARLES WHITE,)	
SHELLY V. ROBINSON, and)	Magistrate Judge Cole
TOMMY G. PILILIMIS,)	
)	
Defendants.)	

**DEFENDANT TOMMY G. PILILIMIS' MOTION TO DISMISS
COUNTS IV AND V OF PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

NOW COMES Defendant TOMMY G. PILILIMIS ("Pililimis"), by and through his attorneys, Anthony Pinelli and Susan M. Pavlow, and respectfully requests this Honorable Court to dismiss Counts IV and V of Plaintiff's first amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for the following reasons:

1. Plaintiff's first amended complaint describes a number of mortgage transactions involving National City Bank and Defendant Creative Financial Solutions, Ltd.

2. The complaint alleges that the mortgages were "defective" based on misrepresentations in the mortgage application regarding information upon which the mortgages were approved and funded regarding employment, residence, financial status of the borrowers and the value of the property. (FAC ¶16 pg. 4).

3. The complaint describes specific transactions alleging that Defendant Pililimis performed the real estate appraisals for three of the properties and further stating that "upon information and belief,

his appraisal improperly overstated the value of the subject property.” (FAC ¶¶28, 31, 49, pgs. 7, 8, 11).

4. The complaint seeks relief against Defendant Pililimis in Counts IV and V. Count IV alleges a civil conspiracy by all named Defendants and Count V is captioned “Aiding and Abetting a Fraud.”

5. Although the complaint against Pililimis alleges fraud and conspiracy, it lacks a specific allegation of any fraudulent act as required by Federal Rule of Civil Procedure 9(b).

WHEREFORE, Defendant Tommy G. Pililimis respectfully requests this Honorable Court to dismiss Counts IV and V of the first amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

Dated: February 19, 2008.

Respectfully submitted,

s/Anthony Pinelli

ANTHONY PINELLI

One of Defendant Pililimis’ attorneys

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Dismiss Counts IV And V of Plaintiff's First Amended Complaint on behalf of Defendant, Tommy G. Pililimis, was served on February 19, 2008, in accordance with Fed. R. Civ. P. 5, L.R. 5.5 and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

s/Anthony Pinelli

ANTHONY PINELLI